HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO :28181 of 2007

Dated 28th December, 2007

Between
Bhukya Bhim Sing

…Petitioner

and

The Commissioner, Prohibition & Excise,
AP, Hyderabad, and, ors

…Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 28181 of 2007

ORDER:

In this Writ Petition, the petitioner has questioned the order dated 4-10-2007 passed in Proceedings Rc.9/2006/P&E/B1 by the Deputy Commissioner, Prohibition & Excise, Warangal Division, Warangal.

The petitioner claims to be the owner of the auto bearing registration No.AP-20W-4916. The said vehicle was intercepted and seized by the third respondent on 31-12-2005 on the ground that the said vehicle was transporting contraband of 60 liters of I.D.Liquor in violation of the AP Prohibition Act, 1995. Pursuant to registration of crime in Case No.488/05-06, proceedings for confiscation were initiated before the Deputy Commissioner, Prohibition & Excise, Warangal Division. Pending consideration of the said proceedings, the vehicle was released pursuant to the order of this Court, on furnishing

Fixed Deposit Receipt for Rs.80,000/-. However, subsequently, the second respondent passed the orders of confiscation dated 13-9-2007. As against the said order, it is stated that, the petitioner has preferred appeal before the first respondent-Commissioner, Prohibition & Excise and the same is pending consideration.

Simultaneously, criminal proceedings are also lodged with reference to the same allegation. On the ground that the petitioner was acquitted by the Criminal Court, representation dated 3-10-2007 was filed before the second respondent for refund of the Fixed Deposit Receipt, which was furnished for release of the vehicle during the pendency of the confiscation proceedings. On the said representation of the petitioner, impugned order dated 4-10-2007 is passed by the second respondent, rejecting the request of the petitioner, by recording a finding that the acquittal from criminal proceedings will not entitle the petitioner for refund of the Fixed Deposit Receipt (FDR).

In this Writ Petition, it is submitted by the learned Counsel for the petitioner that the vehicle in question was used without knowledge of the petitioner and batch of cases are pending consideration before this Court on this aspect.

As against the order of confiscation, it is stated that, the petitioner has already preferred appeal and the same is pending consideration. Whether the petitioner was having knowledge or not, and, whether the order of confiscation passed by the primary authority is correct or not, are the matters, which are required to be considered by the appellate authority in the appeal filed by the petitioner. The impugned order is passed, rejecting the request of the petitioner for refund of the FDR, on the ground that acquittal or conviction or

otherwise of the criminal charges have no bearing on the order of confiscation and to return the FDR as much as the vehicle was already ordered to be confiscated by the competent authority. In that view of the matter, I do not find any illegality in the impugned order dated 4-10-2007 passed by the second respondent.

The Writ Petition is devoid of merits and is accordingly dismissed at the admission stage. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATE: 28-12-2007.
Msnr.